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TOWN OF SANDOWN, NH

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August 12, 2013

Newton Tedder
US EPA Region 1
5 Post Office Square- Suite 100
Mail Code OEP06-4
Boston, MA 02109-3912

Dear Mr. Tedder,

On May 13, 2013 the United States Environmental Protection Agency (EPA) issued a Notice of Availability of the draft Small Municipal Separate Storm Sewer System (MS4) National Pollutant Discharge Elimination System (NPDES) General Permit for New Hampshire and currently seeks comment on the same. The Town of Sandown will be subject to compliance with requirements of the updated General Permit. The Town of Sandown has maintained coverage under NPDES since 2003 when, in accordance with MS4 requirements, the Town developed its initial Stormwater Management Program (SWMP). Since SWMP adoption, the Town has successfully implemented many of the Program's initiatives and various Town Departments have adopted the majority of best management practices described therein as standard operating procedures.

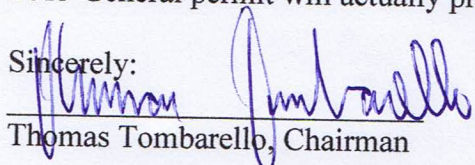
Upon reading of the 2013 New Hampshire Small MS4 Draft General Permit, in general terms, the Board of Selectmen is troubled to learn that a number of amendments appear to both "shift the burdens" of implementation from others to the municipality, as well as increase the amount of time required for proper administration of the Permit. Not only does the draft permit require compliance, but in many cases now requires municipalities to expend valuable and often limited resources in order to demonstrate and document such compliance. We presume Sandown may be one of the smaller New Hampshire municipalities that will ultimately be subject to requirements of the 2013 General Permit. Based upon our reading of the amended General Permit we are concerned the extent of time and resources required in order to properly administer a future SWMP for a modest sized municipality, like Sandown, will prove to be roughly the same as that required of a much larger municipality. We are also concerned the extent of time and other resources which will now be required in order to demonstrate and document General Permit compliance will quickly become a burden to the Town of Sandown in terms of manpower and financial resource allocation. We presume the EPA's recognition of this potential gave rise to the inclusion of language contained in Section 1.10(c) of the General Permit, which reads: "The permittee is encouraged to maintain an adequate funding source for the implementation of this program. Adequate funding means that a consistent source of revenue exists for the program." Talk about unfunded federal mandate!

Other specific concerns include the following:

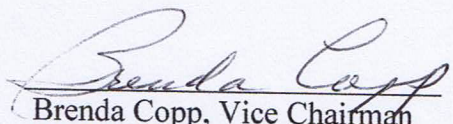
1. Under Section 2.2.1 of the 2013 General Permit specifies "Approved Total Maximum Daily Load (TMDL)" values for bacteria and phosphorous applicable to the Exeter River and Showell Pond. Appendix F to the Permit specifies the following reduction percentages, required to in order to achieve the EPA "approved" TMDL limits, to be as follows: (a) Bacteria at the Exeter River - 82%; and (b) Phosphorous at Showell Pond - 69%. While the levels of desired TMDL reduction may be desirable, from the perspective of the Town of Sandown we have the following concerns:
 - What is the level of confidence in data used to establish TMDL limits and target reduction values? How current is it? Where did it come from? Is it accurate?
 - When one considers the limited volumes of stormwater directly tributary to each of the two water bodies from land and facilities actually owned and managed by the Town of Sandown rather than private parties, we suspect it may not be possible for the municipality to achieve the reductions in TMDL loading sought by the EPA. In the case of bacteria loading to the Exeter River and phosphorous loading to Showell Pond, we suspect the source of excess TMDL levels are likely privately owned septic systems, agriculture, lawn maintenance and other "homeowner" activity rather than stormwater runoff from the municipal highway system. Do the prescribed TMDL limits cited in Appendix F set the town up to fail? We are concerned they do.
2. Section 2.2.3 acknowledges Sandown's location in the Great Bay Watershed and goes on to require municipalities that discharge stormwater directly to nitrogen impaired water bodies (Exeter River) in the Great Bay Estuary watershed to develop a three phase plan, through an iterative process, in accordance with the provisions of Section 2.2.2 for the reduction of nitrogen. Section 2.2.2 is a prime example of the "burden shifting" I commented on above. It is very clear to us the Town of Sandown will be forced to seek outside assistance on an annual basis, at great expense, in order to insure compliance with the provisions of Sections 2.3.4.2 through 2.3.4.11 of the General Permit.
3. In several Sections of the draft 2013 General Permit municipalities will be required to produce relatively sophisticated mapping (see Section 2.3.4.6) in a relatively short time frame. While those larger municipalities that presently enjoy in-house GIS capabilities should be able to satisfy these mapping requirements with little difficulty, we see this type of requirement as burdensome, particularly for smaller towns as such Sandown that presently do not have in-house mapping capabilities. We have similar concerns related to screening and sampling requirements. One example is contained in Section 2.3.4.8(d), which in the case of Sandown, will force the Town to rely upon the services of a contracted environmental testing firm to periodically collect and analyze water samples.

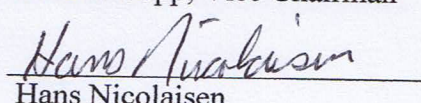
While there are other attributes of the draft 2013 General Permit that cause us similar concerns as those examples cited above, we believe consideration of those described serve to properly reinforce our overall opinion that requirements imparted upon New Hampshire municipalities, especially smaller towns such as Sandown, will serve to create an undue burden. Most importantly, in the case of Sandown, we find it difficult to believe that the dramatic increase in annual cost required to implement a SWMP compliant with the draft 2013 General permit will actually produce better results than the current program.

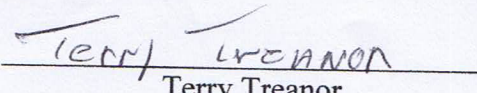
Sincerely:


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